

AMENDMENTS TO THE DRAWINGS:

The attached replacement drawing sheet including Fig. 3 should replace the originally filed drawing sheet including Fig. 3. Fig. 3 is amended to include a --Prior Art-- label.

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the previous amendments and the following remarks.

The drawings are amended to address the issue raised on page four of the Official Action. Withdrawal of the objection to the drawings is therefore respectfully requested.

Claim 1, the only independent claim, is rejected as being anticipated by U.S. Patent No. 5,353,943, hereinafter Hayward.

Hayward discloses an easy-opening composite closure 10 for a packaging container 100. The closure 10 includes a composite lidding member 30 and an end member 20 double-seamed to the open end of the packaging container 100. The lidding member 30 is bonded to a ledge portion 23 of the end member 20 and covers a central opening 24 of the end member 20. The lidding member 30 includes a circular notch 67 cut into its bottom layer and another circular notch 69 cut into its top layer. As discussed in detail from lines 52 of column 6 through line 49 of column 7 of Hayward, when a tab 33 of the lidding member 30 is pulled, a ring-shaped member 84 and a central portion 85 of the lidding member 30 are separated from the rest of the container 100.

The Official Action states that the closure 10 in Hayward constitutes a first portion formed of a first material or material combination, the container 100 constitutes a second portion formed of a second material or material combination, and the notches 67, 69 constitute a tearing line. The Official Action also takes the position that the notches 67 and 69 extend essentially from the opening 24 toward

an interface between the closure 10 and the container 100 and also extend essentially along a complete extension of the interface.

However, the interface, if any, between the closure 10 and the container 100 in Hayward is simply the area where the end curl 21 of the end member 20 and the body flange 101 of the container 100 are double-seamed together, as most easily seen in Hayward's Fig. 3. Moreover, the notches 67 and 69 are circular and concentric with the opening 24. It is therefore clear that the notches 67 and 69 do not extend essentially from the opening 24 toward the interface.

Moreover, Applicants disagree with the view that Hayward's closure 10 is formed of a first material or material combination, while the container 100 is formed of a second material or material combination, and the view that Hayward's notches 67 and 69 extend essentially along a complete extension of the interface. Nevertheless, the original wording in Claim 1 is varied in minor respects to recite in different terms that which was originally claimed. Specifically, amended Claim 1 recites a packaging container including a first portion formed of a first material or material combination, a second portion formed of a second material or material combination different from the first material or material combination, and a pouring opening formed in the first portion, wherein the first portion is further provided with a tearing line extending essentially from the pouring opening towards an interface between the first portion and the second portion and essentially along an entirety of said interface. Clearly, Hayward's container 100 is not formed of a second material or material combination different than the material or material combination of the closure 10. Also, Hayward's notches 67 and 69 do not extend essentially along an entirety of an interface between the closure 10 and the container 100.

Claim 1 is therefore allowable over Hayward, and withdrawal of the rejection of Claim 1 as being anticipated by Hayward is respectfully requested.

The dependent claims are allowable at least by virtue of their dependence from allowable independent claims. Thus, a detailed discussion of the additional distinguishing features recited in the dependent claims is not set forth at this time.

Early and favorable action with respect to this application is respectfully requested.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: June 9, 2009

By: *Peter T. deVore*
Matthew L. Schneider
Registration No. 32814

Peter T. deVore
Registration No. 60361

P.O. Box 1404
Alexandria, VA 22313-1404
703 836 6620